REMARKS

Claims 1-28, 50-65, and 77-91 were pending in the present application. Claims 29-49 and 66-76 were previously cancelled in response to a restriction requirement. No claims are withdrawn from consideration. By virtue of this response, claims 20, 62, and 88 are cancelled, claims 1, 50, and 77 have been amended, and no new claims have been added. Accordingly, claims 1-19, 21-28, 51-61, 63-65, 77-87, and 89-91 are currently under consideration. Amendment and cancellation of certain claims is not to be construed as a dedication to the public of any of the subject matter of the claims as previously presented. No new matter has been added.

Rejections under 35 USC § 102

Claims 1-19, 21-27, 50, 52-61, 63-65, 77,79-87 and 89-91 are rejected under 35 USC § 102(e) as allegedly being anticipated by Mackintosh et al. (US6,317,784).

In response, independent claims 1, 50 and 77 have been amended. Applicants respectfully submit that Mackintosh does not teach each and every recitation of claims 1, 50 and 77. Applicants therefore respectfully request withdrawal of the rejections against claims 1, 50, and 77.

Additionally, claims 2-19, 21-27, 52-61, 63-65, 79-81, and 89-91 depend respectively from one of independent claims 1, 50, and 77. Applicants submit that these dependent claims benefit from the additional recitations of their respective independent claims, and are therefore allowable at least on that basis. Applicants respectfully request withdrawal of the rejections against these claims.

Rejections under 35 USC § 103

Claims 20, 51, 62, 78 and 88 are rejected under 35 USC § 103(a) as allegedly being unpatentable over Mackintosh et al. (US 6,317,784) as applied to claims 1-19, 21-27, 50, 52-61, 63-65, 77, 79-87 and 89-91 above.

The rejection alleges that "it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include a personal page in Mackintosh's system because doing so would bring convenience to users by enable [sic] them to view their configured information when they need." Paper No. 2, P. 7

Applicants respectfully submit that Mackintosh provides no suggestion that supplemental information should be user selectable based on a "previously entered user configuration" (claim 1) or the like.

For example, Mackintosh teaches "...supplemental materials can be provided to a user in a coordinated fashion with the broadcast materials being delivered...such that they relate to the actual broadcast materials as they are being streamed or otherwise delivered to the user...Supplemental materials can include, for example, images, video clips, audio clips, data, or other materials that may be provided to the user in conjunction with the broadcast materials. The supplemental materials can also include advertising information that is provided to the user during particular segments of the broadcast material. In one embodiment, this advertising information can be coordinated with the particular segments of the broadcast material such that the value of the advertising is enhanced...One example application of this aspect of the invention is found in the broadcast of radio broadcast materials over the Internet. According to this example application, the radio broadcast materials can include a plurality of tracks that can be streamed to a user via the Internet. The tracks can include, for example, music tracks, advertising tracks, DJ voice or introduction tracks, promotional tracks, and any other track that a station my wish to broadcast as part of its broadcast material." Mackintosh (2:43-3:25)

However, Applicants submit Mackintosh does not teach supplemental information being determined based on a user configuration. Applicants also submit that Mackintosh would provide no such suggestion to one of ordinary skill in the art because Mackintosh teaches "broadcasting" and "providing supplemental materials in coordination with broadcast materials." (5:7-10)

Thus, Applicants submit that Mackintosh does not teach or suggest each and every limitation of amended claims 1, 50, and 77, and that therefore these claims are novel and non-obvious over Mackintosh.

Motivation to Combine

Additionally, the rejection alleges "[o]ne of ordinary skill in the art would have been motivated to modify Mackintosh's system with personal page to improve the functionality of the system." Paper No. 2, P. 7 Applicants submit that such a generalized formulation of a motivation to modify the system of Mackintosh does not meet the applicable legal standards, and is based on impermissible hindsight derived from Applicants' disclosure. *See* In re Lee, 277 F.3d 1338 1342-44 (Fed. Cir. 2002) (describing the importance of relying on objective evidence and specific factual findings with respect to a motivation to combine.) *See also* In re Kotsab, 217 F.3d 1365, 1371 (reversing an obviousness rejection involving a technologically simple concept because there was no finding as to the specific understanding within the knowledge of the skilled artisan that would have motivated the skilled artisan to make the claimed invention). Applicants submit that to "improve the functionality" of Mackintosh is a generalized rationale that does not meet the requirements of providing a factual finding of a specific understanding. Applicants therefore respectfully submit that the pending claims are non-obvious in view of Mackintosh because Mackintosh does not teach or suggest all the limitations of the claims, and one of ordinary skill in the art before the filing date of the present application would not be motivate to form the combination recited in the claims absent impermissible reliance on the Applicants' disclosure. Applicants request withdrawal of the rejections against the pending claims.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 324212007600. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: May 1, 2006

Respectfully submitted,

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